

AUTOMOBILE INSURANCE

KNOW YOUR RIGHTS WHEN NEGOTIATING MOTOR VEHICLE COLLISION REPAIRS

What You Should Know About

1. After-Market Parts (Non-OEM) v. Original Equipment Manufacturer Parts (OEM); and
2. Your Right To Choose A Repair Shop



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What are After-Market Parts?

'After-Market Parts' (also called non-OEM parts, meaning 'non-original equipment manufacturer parts'), are defined in NH RSA 407-D. They are limited to certain parts manufactured by companies *other than* those that produced the original equipment. These include sheet metal or plastic parts that form the exterior of a motor vehicle, including inner and outer panels.

Should I be concerned about the use of After-Market Parts on my car?

Automobile parts are no different than any other commodity. Many are good and result in true cost savings. Some are not so good.

Because they are held to be generally less costly than original equipment parts, many insurance companies prefer them as a means of controlling claim costs. Lower claims costs can result in lower premiums. Sometimes, however, these parts may be made of material of lesser quality. The fit may be less precise than original equipment parts. When this happens, additional labor time can be required in fitting the part in place. Ill-fitting parts may permit water to enter where it otherwise would not have. The finish can be of lesser quality, and scratches may result in more rapid and serious rusting. Moving parts such as doors, trunk lids or hoods may not fit as well. Lighter gauge parts may dent more easily.

In its February, 1999 edition, "**Consumer Reports**" printed an eight page article featured on its cover entitled, "*Exclusive – Shoddy Auto Parts.*" You may wish to obtain this article and review the insurer responses to it.

How Do I know if After-Market Parts are being used in the repair of my car?

In New Hampshire, the legislature has passed laws and the New Hampshire Insurance Department has established regulations and bulletins that govern insurance companies' use of After-Market Parts. RSA 407-D:4 and Insurance Department Bulletin 99-014-AB require disclosure statements that mandate quality and performance of these parts. If these disclosures are not made, the insurance company may not require the use of After-Market Parts.

What is being done to protect consumers from having to use those particular After-Market Parts of inferior quality or design?

The New Hampshire Insurance Department has issued Bulletin No. Ins. 99-014-AB. This reinforces existing statutes and regulations. It also mandates that After-Market Parts may not be required by insurance companies in the repair of automobiles placed in service during the immediately preceding two (2) years, and which have 30,000 or fewer miles recorded on the odometer.

But I leased my automobile. My lease makes me responsible for any reduction in value at termination if it has been repaired with After-Market Parts.

That same Insurance Department bulletin also mandates that After-Market Parts may not be used on leased vehicles *if the lease specifically provides that such parts will cause a diminution, or reduction, in the residual value of that vehicle.*

What else is there to protect consumers?

The New Hampshire Insurance Department maintains a toll free consumer line (**1-800-852-3416**) and a Consumer Division to respond to consumer questions and to investigate charges of inappropriate behavior by

insurance companies. The Department may also be contacted through its web site:
www.state.nh.us/insurance.

I know someone whose insurance company insisted that repairs be made at a certain garage. Can an insurer do that?

NH RSA 417:4 and Insurance Department Regulation Ins 1001:03 prohibit insurance companies from 'coercion' or 'steering'. They may make recommendations, but not pressure policyholders or claimants to have repairs made in a particular shop or by a particular concern. This applies whether

- you are making a claim under *your own* policy for damage to *your car*, or
 - you are making a claim against another person for damages to *your car for which that person is responsible*.
- However, insurers may limit payment for repair work based on the fair and reasonable price charged by repair shops in your area.

My insurance company insists that I agree in writing to accept an amount less than the cost of the repair or the value of my car before they will pay anything.

Insurance companies **may not withhold undisputed sums** that are part of a greater claim in which other elements are disputed. The partial payment must be made and is made without prejudice to either party, as provided in Regulation Ins. 1001.05

GLOSSARY

"After-Market Parts" (Non-OEM) –

Sheet metal or plastic parts which generally constitute the exterior of a motor vehicle, including inner and outer panels. Non-OEM parts are produced by manufacturers *other than* the original equipment manufacturer. These parts must meet a standard of being 'at least equal in like kind and quality to the original part in terms of fit, quality and performance' to original equipment manufacturer parts.

"Coercion" –

The act of compelling someone to do something by the use of power, intimidation or threats.

"Like Kind and Quality"

A comparative assessment of parts and materials between those originally a part of the vehicle and those used in its repair in terms of fit, quality and performance.

"Original Equipment Manufacturer Parts" (OEM) –

Parts that are produced by the manufacturer of the automobile's original equipment.

"Steering" –

The act of directing or controlling a course of action, as in requiring that repairs be made by a particular person or concern.

NH REVISED STATUTES NH INSURANCE DEPARTMENT REGULATIONS & BULLETINS

RSA 407-D:3 & 4 – "After-Market Parts" disclosure requirement; parts must be 'at least equal in like kind and quality to the original part in terms of fit, quality and performance.'

RSA 417:4 XX – No insurance company, agent or adjuster "shall require any insured person to use a particular company or location for providing auto glass replacement or repair services or products insured in whole or in part by that policy."

RSA 417:4 XV (a) (4) – Requires insurers to “in good faith effectuate prompt, fair and equitable settlements or compromises of claims.”

RSA 417:4 XV (a) (5) – Prohibits insurers from compelling claimant litigation “by offering substantially less than the amounts ultimately recovered in actions brought by them.”

RSA 417:4 XV (a) (8) – Prohibits insurers from “attempting to settle or compromise a claim for less than the amount which the insured had been led to believe the insured was entitled to by written or printed advertising material accompanying or made part of an application.”

RSA 417:4 XV and Ins 1001.02 – Prohibit acts committed by an insurer which constitute unfair and illegal claim settlement practices.

Regulation Ins 1001.03 (a) & (b) – An insurer may *recommend*, (but not *require* as a condition of payment), that repairs be made in a particular place or shop or by a particular concern.”

Regulation Ins 1001.05 – Prohibits insurers from withholding payment for undisputed amounts even if other elements of the claim remain a matter of dispute.

Bulletin Ins No. 99-014-AB –

- All licensed insurance writers of private passenger auto coverage who specify repairs using after-market parts shall state in writing to the owner of the vehicle being repaired the following: “*The after-market part(s) being specified for the repair of your vehicle are at least equal in kind and quality to the original equipment in terms of fit, quality and performance.*” This is in addition to the Disclosure Statement required by RSA 407-D:4.
- After-Market Parts may not be required for use on autos placed in service within the immediately preceding two (2) years and which have 30,000 or fewer miles recorded on the odometer.
- After-Market Parts may not be required for use on leased vehicles *if the lease specifically provides that such parts will cause a diminution of the residual value of such vehicles.*

There are additional statutes and regulations that apply to settlement of Automobile Claims. These may be found on the New Hampshire Insurance Department’s web site: **www.state.nh.us/insurance**.

RECOMMENDATIONS

- Read your insurance policy carefully to find your rights and responsibilities.
- Confer with your agent or broker for answers to questions about your policy.
- Visit the New Hampshire Insurance Department’s web site to read New Hampshire’s insurance laws and the Insurance Department’s regulations and bulletins.
- Call the New Hampshire Insurance Department’s toll free consumer assistance line if you have questions or problems. The telephone number is **1-800-852-3416**.